

Senate Bill No. 2237

Passed the Senate August 19, 1998

Secretary of the Senate

Passed the Assembly August 13, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Section 25105.5 of the Government Code, to amend Section 4582.8 of the Public Resources Code, and to amend Sections 64, 75.21, 452, and 5802 of, and to add Sections 207.1 and 38116 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 2237, Committee on Revenue and Taxation. Taxation: property: timber.

Existing law requires the Director of Forestry and Fire Protection to transmit copies of specified notices of exemption or emergency relating to timber to the State Board of Equalization.

This bill would require that those notices include an estimate of the timber owner as to whether or not the subject timber will be subject to timber yield tax, as provided.

Existing property tax law provides that the purchase or transfer of ownership interests in legal entities shall not be deemed to constitute a transfer of the real property of the entity.

This bill would make a technical, nonsubstantive change to those provisions.

Existing property tax law specifies that exemptions shall be applied to the amount of the supplemental assessment, as defined, provided, among other things, that claims for exemption are filed.

This bill would reduce the number of times a claim is required to be filed, and provide that personal property leased to a church and used as provided shall be deemed to be used exclusively for religious purposes.

Existing property tax law requires the State Board of Equalization to prescribe the content of property statements, and notify assessors of the same.

This bill would change the time period to notify assessors of the contents of the property statements, as provided.



The Mobilehome Property Tax Law provides for the taxation of mobilehomes.

This bill would make a technical, nonsubstantive change to that law relating to base year value, as defined.

The Timber Yield Tax Law imposes a tax on timber owners with respect to the harvesting of timber or felled or downed timber at specified rates.

This bill would exempt from the tax, timber whose immediate harvest value is low, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 25105.5 of the Government Code is amended to read:

25105.5. The clerk of the board of supervisors may, without complying with any other provision of law, destroy records consisting of claims against the county and claims against special districts for which the board of supervisors is the governing body, whenever the claims have been retained by the clerk for a period of not less than five years after final action on the claim. The clerk of the board of supervisors may destroy records consisting of assessment appeal applications when five years have elapsed since the final action on the application. The clerk may destroy the records three years after the final action on the application, if the records consisting of assessment appeal applications have been microfilmed, microfiche, imaged, or otherwise preserved on a medium that provides access to the documents, in accordance with Section 25105.

As used in this section “final action” means, in the case of an assessment appeals application, the date of the final decision by the assessment appeals board and, in the case of a claim, the date of payment or settlement of the claim, or denial or approval of the claim by or in behalf of the board of supervisors or by operation of law, whichever occurs first, if there is no action pending involving the application or claim.

SEC. 2. Section 4582.8 of the Public Resources Code is amended to read:

4582.8. Within 10 days from the date that a timber harvesting plan is determined to be in conformance under Section 4582.7, or within 10 days from the date of receipt of a notice of timber operations, a nonindustrial timber harvest notice, a notice of exemption to convert less than three acres to a nontimber use pursuant to Section 4584, or an emergency notice filed pursuant to Section 4592, the director shall transmit copies thereof to the State Board of Equalization. Any notice of exemption or notice of emergency transmitted to the State Board of Equalization pursuant to this section shall include, among other things, an estimate of the timber owner as to whether the timber to be harvested pursuant to the notice will or will not be exempt from timber yield tax pursuant to Section 38116 of the Revenue and Taxation Code as interpreted and implemented by the State Board of Equalization.

SEC. 3. Section 64 of the Revenue and Taxation Code is amended to read:

64. (a) Except as provided in subdivision (i) of Section 61 and subdivisions (c) and (d) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership or limited liability company interests, shall not be deemed to constitute a transfer of the real property of the legal entity. This subdivision is applicable to the purchase or transfer of ownership interests in a partnership without regard to whether it is a continuing or a dissolved partnership.

(b) Any corporate reorganization, where all of the corporations involved are members of an affiliated group, and that qualifies as a reorganization under Section 368 of the United States Internal Revenue Code and that is accepted as a nontaxable event by similar California statutes, or any transfer of real property among members of an affiliated group, or any reorganization of farm credit institutions pursuant to the federal Farm Credit Act of 1971 (Public Law 92-181), as amended, shall not be a change of ownership. The taxpayer shall furnish proof,



under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

For purposes of this subdivision “affiliated group” means one or more chains of corporations connected through stock ownership with a common parent corporation if both of the following conditions are met:

(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations.

(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(c) (1) When a corporation, partnership, limited liability company, other legal entity, or any other person obtains control through direct or indirect ownership or control of more than 50 percent of the voting stock of any corporation, or obtains a majority ownership interest in any partnership, limited liability company, or other legal entity through the purchase or transfer of corporate stock, partnership, or limited liability company interest, or ownership interests in other legal entities, including any purchase or transfer of 50 percent or less of the ownership interest through which control or a majority ownership interest is obtained, the purchase or transfer of that stock or other interest shall be a change of ownership of the real property owned by the corporation, partnership, limited liability company, or other legal entity in which the controlling interest is obtained.

(2) On or after January 1, 1996, when an owner of a majority ownership interest in any partnership obtains all of the remaining ownership interests in that partnership or otherwise becomes the sole partner, the purchase or transfer of the minority interests, subject to the appropriate application of the step-transaction doctrine, shall not be a change in ownership of the real property owned by the partnership.

(d) If property is transferred on or after March 1, 1975, to a legal entity in a transaction excluded from change in



ownership by paragraph (2) of subdivision (a) of Section 62, then the persons holding ownership interests in that legal entity immediately after the transfer shall be considered the “original coowners.” Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of that real property owned by the legal entity shall have occurred, and the property that was previously excluded from change in ownership under the provisions of paragraph (2) of subdivision (a) of Section 62 shall be reappraised.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

A transfer of shares or other ownership interests that results in a change in control of a corporation, partnership, limited liability company, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision.

(e) In order to assist in the determination of whether a change of ownership has occurred under subdivisions (c) and (d), the Franchise Tax Board shall include a question in substantially the following form on returns for partnerships, banks, and corporations (except tax-exempt organizations):

If the corporation (or partnership or limited liability company) owns real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership or limited liability company capital and partnership or limited liability company profits) (1) been transferred by the corporation (or partnership or limited liability company) since March 1, 1975, or (2) been acquired by another legal entity or person during the year? (See instructions.)



If the entity answers “yes” to (1) or (2) in the above question, then the Franchise Tax Board shall furnish the names and addresses of that entity and of the stock or partnership or limited liability company ownership interest transferees to the State Board of Equalization.

SEC. 4. Section 75.21 of the Revenue and Taxation Code is amended to read:

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), that the assessee is eligible for the exemption, and that in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for the exemption for the next succeeding lien date.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for the next succeeding lien date for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) For purposes of this section, any claim for the homeowners’ exemption, veterans’ exemption, or disabled veterans’ exemption previously filed by the owner of a dwelling, granted and in effect, constitutes the claim or claims for that exemption required in this section. In the event that no claim for the homeowners’ exemption, veterans’ exemption, or disabled veterans’ exemption is in effect, a claim for any of those exemptions for a single supplemental assessment for a change in ownership or new construction occurring on or after June 1, up to and including December 31, shall apply to that assessment; a claim for any of those exemptions for the two supplemental assessments for a change in ownership or new construction occurring on or after January 1, up to and including May 31, one for the current fiscal year



and one for the following fiscal year, shall apply to those assessments. In either case, if granted, the claim shall remain in effect until title to the property changes, the owner does not occupy the home as his or her principal place of residence on the lien date, or the property is otherwise ineligible pursuant to Section 205, 205.5, or 218.

SEC. 5. Section 207.1 is added to the Revenue and Taxation Code, to read:

207.1. Personal property leased to a church and used exclusively for the purposes described in Section 207 shall be deemed to be used exclusively for religious purposes under that section.

The exemption provided by this section is granted pursuant to the authority in Section 2 of Article XIII of the California Constitution.

SEC. 6. Section 452 of the Revenue and Taxation Code is amended to read:

452. For the assessment year beginning in 1968 and each assessment year thereafter, the board shall prescribe in detail the content of property statements, including the specific wording, to be used by all assessors in the several counties, and cities and counties, and shall notify assessors of those specifications no later than the August 31 prior to the tax lien date on which they become effective. Each assessor shall incorporate the specifications on the exact form he or she proposes to use and submit that form to the board for approval prior to use. The property statement shall not include any question that is not germane to the assessment function.

SEC. 7. Section 5802 of the Revenue and Taxation Code, as amended by Section 14 of Chapter 1222 of the Statutes of 1994, is amended to read:

5802. (a) Except as provided in subdivisions (b) and (c), “base year value” as used in this part means the full cash value of a manufactured home on the date the manufactured home is purchased or changes ownership. If the manufactured home undergoes any new construction after it is purchased or changes ownership, the base year value of the new construction is its full cash



value on the date on which the new construction is completed, and if uncompleted, on the lien date.

(b) The base year value of a manufactured home for which the license fee is delinquent shall be its full cash value on the lien date for the fiscal year in which it is first enrolled.

(c) The base year value of a manufactured home converted pursuant to Section 18119 of the Health and Safety Code from taxation under Part 5 (commencing with Section 10701) of Division 2 to taxation under this part shall be its full cash value on the lien date for the fiscal year in which that manufactured home is first enrolled.

(d) Notwithstanding any other provision of law, the assessor shall determine the base year value of a manufactured home, located in a resident-owned mobilehome park or a rental park in the process of being changed to resident ownership, that is converted to property taxation by the registered owner pursuant to Section 18555 of the Health and Safety Code, so that the property taxes levied, after adjustment for any applicable exemption, shall be the same amount as the vehicle license fee that was imposed for the registration year in which the home was converted to property taxation.

(e) This section shall remain in effect until January 1, 1999, and on that date is repealed.

SEC. 8. Section 5802 of the Revenue and Taxation Code, as amended by Section 15 of Chapter 1222 of the Statutes of 1994, is amended to read:

5802. (a) Except as provided in subdivisions (b) and (c), “base year value” as used in this part means the full cash value of a manufactured home on the date the manufactured home is purchased or changes ownership. If the manufactured home undergoes any new construction after it is purchased or changes ownership, the base year value of the new construction is its full cash value on the date on which the new construction is completed, and if uncompleted, on the lien date.

(b) The base year value of a manufactured home for which the license fee is delinquent shall be its full cash

value on the lien date for the fiscal year in which it is first enrolled.

(c) The base year value of a manufactured home converted pursuant to Section 18119 of the Health and Safety Code from taxation under Part 5 (commencing with Section 10701) of Division 2 to taxation under this part shall be its full cash value on the lien date for the fiscal year in which that manufactured home is first enrolled.

(d) This section shall become operative on January 1, 1999.

SEC. 9. Section 38116 is added to the Revenue and Taxation Code, to read:

38116. (a) Subject to the limitation in subdivision (b), there is exempted from the tax imposed by this part timber whose immediate harvest value is so low that, if not exempt, the tax on the timber would amount to less than the cost of administering and collecting the tax, as determined by the board by rule. The board, after consultation with the Timber Advisory Committee, shall establish by rule the level at which the tax that would apply is less than the cost to administer and collect the tax.

(b) The board shall have no authority to exempt timber with an estimated immediate harvest value of more than three thousand dollars (\$3,000).



Approved _____, 1998

Governor

